IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

-

WRIT PETITION NO : 20273 of 1994

Between:

1. B.Sreenivasa Rao, s/o. B.Penchalaiah, Occ:
Plantation Manager, A.P. Forest Development

Corporation Limited, Bapatla, Guntur.

2. D.P. Subba Raju, s/o. D.Venkata Subba Raju,

Occ:Plantation Manager, Paloncha.

3. I.Sateesh, s/o. Narsimha Rao, Occ:

Plantation Manager, Kothagudem.

4. K.Saraswathi Rao, s/o. K.Narsimloo, Occ:

Plantation Manager, Satyavedu.

5. Dr. B.Sreenivasa Reddy, s/o. B.Gopal Reddy,

Occ:Plantation Manager, Kavali, Nellore District.

..... PETITIONERS

AND

1. Andhra Pradesh Forest Development Corporation

Limited, represented by its Vice-Chairman and

Managing Director, UNI Building, III Floor, A.C.Guards,

Hyderabad.

2. Government of Andhra Pradesh, represented by its

Principal Secretary, Energy, Forests, Environmental,

Science and Technology, Secretariat, Hyderabad.

3. B.Venkateswarlu, A.P. Forest Development Corporation

Limited, Hyderabad.

4. V.Swamy Naidu, A.P. Forest Development Corporation

Limited, Hyderabad.

5. T.Ramakrishna, A.P. Forest Development Corporation

Limited, Hyderabad.

6. S.Maheswara Rao, A.P. Forest Development Corporation

Limited, Hyderabad.

7. L.Raghunatha Rao, A.P. Forest Development Corporation

Limited, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ more so in the nature of a Writ of Mandamus declaring the action of the respondents in ignoring the rank obtained in the Rangers' College, for the purpose of fixation of inter se seniority as highly arbitrary, illegal and unconstitutional and direct the respondent to forbear from giving effect to Regulation 16 of APFDC Staff Regulations and to consequently direct the respondents to consider the rank obtained during training in Rangers' College for the purpose of fixation of seniority as is being done in Forest Department under the Andhra Pradesh Subordinate Service Rules.

Counsel for the Petitioners: MR.RUPENDRA MAHENDERA

Counsel for the Respondent No.1: MR.P.SREE RAMULU NAIDU

Counsel for Respondent No.2: G.P. for FORESTS

Counsel for Respondent Nos.3 to 7: None appeared.

The Court made the following:

ORAL ORDER:

The petitioners, five in number, seek a declaration that the ranks assigned to them on completion of training in the Rangers' College should be made the

basis for fixation of *inter se* seniority among Plantation Managers in the 1st respondent-Corporation. They seek a further direction to the respondents to forbear from giving effect to Regulation 16 of A.P. Forest Development Corporation Staff Regulations.

2. Few facts, as may be noted from the affidavit filed in support of the Writ Petition, are that the 1st respondent-Corporation (Government of Andhra Pradesh Undertaking) was incorporated in the year 1975. Prior to 1980-81, the executive staff of the 1st respondent, including those working as Plantation Managers, were drawn on deputation from the Forest Department of the Government of Andhra Pradesh. The State Government issued GO.Ms.No.676, dated 23.7.1976 empowering the executive staff of the 1st respondent-Corporation to perform certain functions of Forest Officers under the A.P. Forest Act, 1967 and the Rules made thereunder. Reference is made to G.O.Ms.No.11, dated 18.1.1990 wherein the Officers and staff of the 1st respondent-Corporation were empowered to perform the corresponding functions of Forest Officers under the A.P. Forest Act. Petitioners' contend that the Plantation Managers of the Corporation were empowered to perform the functions of the Forest Range Officers working in A.P. Forest Service. It is stated that the Plantation Managers, including the petitioners herein, who were appointed by direct recruitment in the Corporation in the year 1982, were sent for training at Forest Rangers' College. The screening test for selection as Plantation Managers was held on 8.8.1982 and after passing the screening test, physical measurement test and walking test, interviews were conducted in the month of September, 1982 and on completion of the selection process, the petitioners were sent for training with effect from 3.11.1982. Petitioners' contend that all of them were sent for training to the Southern Forest Ranger's College, Coimbatore, for a period of one year, after completion of which they were posted at various places in November, 1983. It is their case that though the provisional seniority list of Plantation Managers as on 31.12.1993 was communicated to them on 25.6.1994, calling for objections, the ranks obtained in the Ranger's College has been totally ignored. Petitioners' contend that since Officers of the 1st respondent-Corporation have been put on par with their counter parts in the above cadre for several purposes and inasmuch as GO.Ms.No.167, dated 8.4.1986 enables the first and second rank holders in the

Ranger's Course to be treated as direct recruits, on par with other candidates who were deputed to State Forest Service Colleges, on appointment as Assistant Conservator of Forests, the same benefits should be extended to the petitioners herein also. Mr.R.Mahendra, learned counsel for the petitioners fairly concedes that the petitioners herein are not the first and second rank holders as determined by the Training College pursuant to the training imparted to the persons appointed as Plantation Managers.

3. It is contended by the learned counsel for the petitioners that not only has the 1st respondent acted in violation of GO.Ms.No.167, dated 8.4.1986 which, according to him, requires the 1st respondent-Corporation to determine the inter se seniority of persons directly recruited as Plantation Managers in the order of the ranking assigned to them by the Training College, but the 1st respondent has also acted contrary to Rule 11 of A.P. Forest Subordinate Service Rules, which relates to seniority, and reads thus:

> "Rule 11: Seniority: The inter se seniority of a particular batch of trainees in the Rangers' College which may include the direct recruits and departmental candidates shall be determined with reference to the ranking obtained in the Rangers' College specified in Rule 34 of the revised Rules for Rangers' course in forestry of the final examination"

Placing reliance on GO.Ms.No.167, dated 8.4.1986 and Rule 11 of A.P. Forest Subordinate Service Rules, Sri R.Mahendra, learned counsel for the petitioners, submits that the petitioners ought to have been given higher rank in the seniority list inasmuch as they were considered more meritorious than respondents 3 to 7 by the Training College on completion of their training, which is a pre-requisite for appointment as a Plantation Manager in the 1st respondent-Corporation.

4. The 1st respondent has filed a detailed counter affidavit, wherein it is stated that the selection process of Plantation Manager is made after assessing the physical suitability and other tests followed by further imparting of institutional training at the Forest Rangers' College. It is stated that there are several Forest Rangers' Colleges throughout the country. When candidates selected for appointment are sent to different Colleges, it would not be possible to determine their seniority based on rankings assigned to them by different Training

Colleges. It is stated that the petitioners were accorded their seniority in the category of Plantation Managers in the order of merit/rank assigned to them by the Selection Committee at the time of their initial appointment and that the case of the petitioners is governed by Regulation 16 of the Regulations framed by the Corporation. It is stated in the counter affidavit that the Staff Regulations applicable to employees of the 1st respondent-Corporation were formulated and came into force with effect from 1.1.1976 on their being approved by the Board of Directors of the 1st respondent-Corporation and that the said Staff Regulations include the post of Plantation Officers, as envisaged in the Annexure to the Staff Regulations, which has now been redesignated as Plantation Managers. Reference is made to Regulation 16 of the Staff Regulations, which deals with seniority, and reads as under:

"SENIORITY:

a. The "Seniority" of a person in a service shall, unless he has been reduced to a lower rank as a punishment, be determined by the date of his first appointment to such service. If any portion of the service of such person does not count towards probation, his seniority shall be determined by the date of commencement of his service which counts towards probation.

b. The appointing authority may, at the time of passing on order appointing two or more persons simultaneously to a service fix the order of preference among them; and where such order has been fixed seniority shall be determined in accordance with it.

c. The transfer of a person from one category or grade of a service to another category or grade carrying the same pay or scale of pay shall not be treated as a first appointment to the latter for purposes of seniority; and the seniority of a person so transferred shall be determined with reference to the date of his first appointment to the category or grade from which he was transferred. Where any difficulty or doubt arises in applying this regulation, seniority shall be determined by the appointing authority."

It is further stated that the Corporation had finalized and communicated the seniority list of Plantation Managers as on 31.12.1989 vide Ref.No.PD/2209/89-

90/PM/SL, dated 19.5.1990. The objections received were considered and rejected vide Head Office letter No.PD/PM/SL/90/35, dated 2.1.1991, which included the objections of the petitioners that the ranks obtained by them in the Training College ought to be made the basis for determining *inter se* seniority of Plantation Managers. It is also stated that the Board of Directors of the 1st respondent-Corporation examined and rejected these contentions in the 81st Meeting held on 30.9.1989 and that the decision of the Board has also been communicated to the petitioners vide proceedings dated 16.12.1989. The subsequent representation of the petitioners was again rejected vide proceedings dated 14.11.1994. It is also stated in the counter affidavit that GO.Ms.No.167, dated 8.4.1986 refers to the ranking assigned by the Training College to the first and second rank holders to enable them to be considered for appointment to the post of Divisional Manager and that the same has no application to the petitioners inasmuch as their seniority is required to be determined on the basis of the Staff Regulations of the 1st respondent-Corporation, which requires seniority to be determined on the basis of the ranking assigned to them by the selection committee at the time of their initial appointment and not on the basis of the ranking assigned by the Training Colleges.

5. The 1st respondent-Corporation is a Government of Andhra Pradesh Public Sector Undertaking, a Company registered under the Companies Act and has a separate legal identity distinct from that of the State Government. The employees of the Corporation are not Government employees and the mere fact that earlier certain Government employees were brought on deputation to the 1st respondent-Corporation would not change the character of persons appointed by direct recruitment with the 1st respondent-Corporation. The petitioners, in this case, who were appointed by direct recruitment in the year 1982, are employees of the 1st respondent-Corporation and are not Government employees. Their services are governed by the Staff Regulations, which have been approved by the Board of Directors of the 1st respondent-Corporation. Government Orders, unless adopted by the Board of Directors and specifically made applicable to employees of the 1st respondent-Corporation, are not

automatically applicable. There is nothing on record to indicate that GO.Ms.No.167, dated 8.4.1986 has been so adopted by the 1st respondent-Corporation. Even otherwise, as fairly conceded by the learned counsel for the petitioners, the said G.O., relates only to the first and second rank holders and has no application to the petitioners herein inasmuch as admittedly they did not secure either first or second rank pursuant to the training imparted to them by the Training Colleges, which they had attended after their selection in the interview.

6. Rule 11 of A.P. Forest Subordinate Service Rules provides that the *inter se* seniority of a particular batch of trainees in the Rangers' College, which may include the direct recruits and departmental candidates, shall be determined with reference to the rank obtained in the Rangers' College specified in Rule 34 of the revised Rules for Rangers' course in forestry of the final examination. The A.P. Forest Subordinate Service Rules applies to certain classes and categories of Officers in the Forest Department of Government of Andhra Pradesh. There is nothing on record to indicate that the 1st respondent-Corporation has adopted the said Rules. Since the Staff Regulations (Regulation 16) of the 1st respondent-Corporation are applicable to employees of the 1st respondent, including the petitioners herein, which specifically provide that the seniority of a person in service shall be determined by the date of his first appointment in such service, the *inter se* seniority of the petitioners and respondents 3 to 7 has necessarily to be on the basis of the ranking assigned to them by the selection committee pursuant to which they were appointed as Plantation Managers in the 1st respondent-Corporation and not on the basis of the ranking assigned to them by the Training College. The contentions based on GO.Ms.No.167, dated 8.4.1986 and Rule 11 of A.P. Forest Subordinate Service Rules, are therefore liable to be rejected.

7. It is also clear from the counter affidavit of the 1st respondent that a provisional seniority list of Plantation Managers was drawn on 31.12.1989, objections called for, considered and thereafter the Board had taken a decision in this regard. The petitioners request for re-fixation of their seniority in the list of Plantation Managers is therefore liable to be rejected. The action of the 1st respondent in determining the *inter se* seniority of Plantation Managers on the

basis of their initial appointment (ranking assigned to them by the selection committee at the time of their selection for appointment as Plantation Managers) is legal, valid and does not call for any interference.

8. In the result, the Writ Petition is dismissed. There shall be no order as to costs.

04.07.2005

SSR

To

1. The Vice-Chairman and Managing Director, Andhra Pradesh Forest Development Corporation Limited, UNI Building, III Floor, A.C.Guards,

Hyderabad.

2. The Principal Secretary, Energy, Forests, Environmental,

Science and Technology, Government of Andhra Pradesh,

Secretariat, Hyderabad.

3 2 CCs to G.P. for Forests, High Court of A.P. Hyderabad. (OUT)

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